

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 269

Introduced by Assembly Member Silva

February 12, 2009

An act to ~~amend Section 18562 of~~ *add Section 18562.5 to the Elections Code*, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 269, as amended, Silva. Elections: ~~ballots~~ *corruption of voting*.

Existing law makes it a misdemeanor for a precinct board member, before placing a ballot into the ballot box, to attempt to learn the name on a ballot or to take other specified actions to obtain information from the ballot.

This bill would also ~~apply this prohibition to a poll worker, poll observer, post-election poll monitor, and canvass observer, and extend the prohibition until the final certification of the statement of votes~~ *make it a misdemeanor for a member of the public observing specified election procedures to willfully engage in certain conduct to find out the voter's identity or the voter's ballot choices*.

Because the bill creates new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 18562.5 is added to the Elections Code,*
2 *to read:*

3 18562.5. (a) *A member of the public is guilty of a misdemeanor*
4 *if, while observing any of the following, he or she willfully engages*
5 *in any conduct set forth in subdivision (b):*

6 (1) *The processing of vote by mail ballots conducted pursuant*
7 *to Chapter 2 (commencing with Section 15100) of Division 15.*

8 (2) *The semifinal official canvass conducted pursuant to Chapter*
9 *3 (commencing with Section 15150) of Division 15.*

10 (3) *The official canvass conducted pursuant to Chapter 4*
11 *(commencing with Section 15300) of Division 15.*

12 (4) *A recount conducted pursuant to Chapter 9 (commencing*
13 *with Section 15600) of Division 15.*

14 (b) (1) *Attempting to ascertain the identity and ballot choices*
15 *of a voter, or having observed or learned the identity of a voter;*
16 *attempting to ascertain the ballot choices of that voter.*

17 (2) *Opening a provisional or vote by mail ballot envelope*
18 *containing a voted ballot in order to ascertain the voter's ballot*
19 *choices.*

20 (3) *Making or placing a mark or device on a ballot or secrecy*
21 *envelope in an attempt to ascertain the voter's ballot choices.*

22 ~~SECTION 1. Section 18562 of the Elections Code is amended~~
23 ~~to read:~~

24 ~~18562. A member of a precinct board, a poll worker, a poll~~
25 ~~observer, a post-election poll monitor, or a canvass observer is~~
26 ~~guilty of a misdemeanor if, prior to the final certification of the~~
27 ~~statement of votes, he or she commits any of the following acts:~~

28 ~~(a) Attempts to find out the name of a voter on a ballot that has~~
29 ~~been handed in by the voter.~~

30 ~~(b) Opens or suffers to be opened or examined the folded ballot~~
31 ~~of any voter that has been handed in.~~

32 ~~(c) Makes or places a mark or device on any folded ballot with~~
33 ~~a view to ascertaining the name of any person for whom the voter~~
34 ~~has voted.~~

35 SEC. 2. *No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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